

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TRUECAR, INC., a Delaware corporation,

Plaintiff,

vs.

TRUCAR.COM,
an internet domain name,

Defendant.

**VERIFIED COMPLAINT FOR
INJUNCTIVE RELIEF**

Civil Action No. _____

VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff TrueCar, Inc. ("Plaintiff") alleges the following in support of its *in rem* claim against the internet domain name <trucar.com>:

NATURE OF ACTION AND RELIEF SOUGHT

1. Plaintiff brings this *in rem* action under the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d) (the "ACPA"), against the following domain name: <trucar.com> (the "Infringing Domain Name"). The Infringing Domain Name is virtually identical to Plaintiff's distinctive trademark TRUECAR (the "Trademark"), is confusingly similar to the Trademark, and is confusingly similar to Plaintiff's use of its Trademark in its website located at <truecar.com> (the "TrueCar Website"). Although the website appearing at

1 the Infringing Domain Name is not, and has never been, authorized by Plaintiff, it is currently
2 designed to appear as if it were operated by or associated with Plaintiff.

3 2. As owner of the Trademark contained in the Infringing Domain Name, Plaintiff
4 seeks the transfer of the Infringing Domain Name and/or the forfeiture or cancellation of the
5 Infringing Domain Name as provided for in the ACPA, 15 U.S.C. § 1125(d)(2)(D)(i).

6 **THE PARTIES**

7 3. Plaintiff is a Delaware corporation with its principal place of business at 225
8 Santa Monica Blvd, 12th Floor, Santa Monica, California 90401.

9 4. The Defendant Infringing Domain Name <trucar.com> is registered to Links
10 Garantia, S.L., Av. Jacquard 91-95, Terrassa, Barcelona 08222, Spain. A copy of the “WhoIs”
11 record for <trucar.com> is attached hereto as Exhibit A.

12 5. The domain name registry for <trucar.com> is VeriSign, Inc., 21345 Ridgetop
13 Circle, Dulles, Virginia 20166. The domain name registrar for <trucar.com> is Enom, Inc., 5808
14 Lake Washington Blvd., Ste. 300, Kirkland, Washington 98033.

15 **JURISDICTION AND VENUE**

16 6. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C.
17 § 1125(d), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1332 (diversity), and §§ 1338(a) and
18 (b) (trademarks).

19 7. The ACPA provides that an *in rem* action against a domain name is proper if the
20 court finds that the owner of a trademark protected by the ACPA is unable to obtain *in personam*
21 jurisdiction over a person who would have been a defendant in a civil action under 15 U.S.C.
22 § 1125(d)(1).

23 8. The legislative history of the ACPA indicates that the inability to obtain *in*
24 *personam* jurisdiction occurs when a non-U.S. resident cybersquats on a domain name that
25 infringes a U.S. trademark. H.R. Rep. 106-412 at 9 (1999). Such is the case here.

26 9. *In rem* jurisdiction is proper in this instance as Plaintiff is not able to obtain *in*
27 *personam* jurisdiction over the registrant/owner of the Infringing Domain Name because it is

1 located outside the United States, specifically, in Spain, and it would otherwise have been a
2 defendant in a civil action under 15 U.S.C. § 1125(d)(1).

3 10. The ACM provides that, in an *in rem* action, a domain name shall be deemed to
4 have its situs in the judicial district in which the domain name registry, registrar, or other domain
5 name authority that registered or assigned the domain name, is located. 15 U.S.C. §
6 1125(d)(2)(C).

7 11. This Court has jurisdiction over the *res* that is the subject of this Complaint — the
8 Infringing Domain Name — because Enom, Inc., the registrar of the Infringing Domain Name,
9 has a principal place of business in this District at 5808 Lake Washington Blvd., Ste. 300,
10 Kirkland, Washington 98033.

11 12. Venue is proper in this Court because the registrar of the Infringing Domain
12 Name, Enom, Inc. has a principal place of business at 5808 Lake Washington Blvd., Ste. 300,
13 Kirkland, Washington 98033. As specifically provided by 15 U.S.C. § 1125(d)(2)(A): “The
14 owner of a mark may file an *in rem* civil action against a domain name in the judicial district in
15 which the domain name registrar, registry, or other domain name authority that registered or
16 assigned the name is located.”

17 **WRITTEN NOTIFICATION TO REGISTRY AND REGISTRAR**

18 13. Pursuant to 15 U.S.C. § 1125(d)(2)(D)(1), Plaintiff is in the process of notifying
19 the .COM registry, VeriSign, Inc., and the registrar, Enom, Inc., of this proceeding by providing
20 them with written notice and a filed, stamped copy of this Complaint. As a result thereof and
21 pursuant to 15 U.S.C. § 1125(d)(2)(D)(1), the domain name registrar, domain name registry, or
22 other domain name authority shall:

23 (I) expeditiously deposit with the court documents sufficient to
24 establish the court’s control and authority regarding the disposition
25 of the registration and use of the domain name to the court; and (II)
26 not transfer, suspend, or otherwise modify the domain name during
the pendency of the action, except upon order of the court.

27 15 U.S.C. § 1125(d)(2)(D).

GENERAL ALLEGATIONS

Plaintiff's Rights In The Trademark

14. Plaintiff's predecessor-in-interest registered the <truecar.com> domain name on or about February 17, 1999.

15. Plaintiff has common law rights in the Trademark based upon its predecessor-in-interest's first use of the Trademark as early as 1999, and its continuous and exclusive use of the Trademark in commerce in the United States since at least as early as 2008. The Trademark has become a distinctive identifier of services offered by Plaintiff.

16. Since September of 2008, Plaintiff has operated the TrueCar Website, where the public can access extensive and valuable information about automotive prices for new cars, including information such as dealer costs, dealer invoice prices, sticker prices, and average prices based on a large volume of representative sales data. Plaintiff has invested substantial resources in establishing the goodwill of its Trademark, including its investments in establishing its TrueCar Website, which utilizes that Trademark.

17. The data on the TrueCar Website comes from a substantial number of data sources. No other website operator aggregates and analyzes as much actual sales data as Plaintiff, making the TrueCar Website a unique and valuable offering in this competitive field.

18. In 2009 the TrueCar Website received more than 489,000 visitors. In 2010 the TrueCar Website received more than 4.2 million visitors. As of July 2011, the TrueCar Website has received more than 2.8 million visitors, and is on track to receive more than 5 million visitors for the year.

19. Plaintiff filed an application to register TRUECAR as a trademark with the U.S. Patent & Trademark Office on April 6, 2009. The registration issued on March 9, 2010 as Registration No. 3759175.

20. Plaintiff also holds Registration No. 3976990 for TRUETRENDS and Registration No. 77915751 for TRUEBUZZ, as well as pending applications for TRUEQUOTE, TRUEAVERAGE, TRUEINDEX, TRUETRUCK, TRUEFINANCE, TRUETRADE,

1 TRUEVIEW, TRUEINSURANCE, TRUELOAN, and WITH TRUECAR.COM, YOU'LL
2 KNOW THE REAL PRICE BEFORE YOU LEAVE YOUR HOME, among others.

3 21. Not only does Plaintiff hold rights in the Trademark; it also holds rights in its
4 TRUE- family of marks.

5 **Infringing Activities By The Owner Of The Infringing Domain Name**

6 22. Long after Plaintiff established rights in the Trademark and achieved success with
7 the TrueCar Website, the website at the Infringing Domain Name started to display content that
8 attempts to mimic the TrueCar Website. The prominent heading at the top of the home page is
9 "Welcome to trucar.com."

10 23. When accessed in July 2011, the home page of the website at the Infringing
11 Domain Name displayed headings such as "New Car Prices," "Car Pricing," "Best Car Prices,"
12 and "Dealer Invoice Price." Clicking on these headings leads to other pages within the website
13 that display links with titles including "Car Pricing," "Buy A New Car," "Top 2011 New Car
14 Pricing," "+ Best Car Prices," "Car Pricing & Car Sales," "New Car Buying," "New Car Prices,"
15 and "New Cars Price."

16 24. After Plaintiff established rights in the Trademark and achieved success with the
17 TrueCar Website, the website at the Infringing Domain Name started displaying advertisements
18 for Plaintiff's nationwide competitors, including Edmunds.com, CarPriceSecrets.com,
19 WhyPaySticker.com, BuyingAdvice.com, TrueDealerCost.com, CarsBelowInvoice.com,
20 BestDealerLocator.com, and Cartelligent.com.

21 25. The Infringing Domain Name is virtually identical to Plaintiff's name and
22 Trademark. The domain name <trucar.com> merely spells Plaintiff's business name and
23 Trademark without the letter "e." The Infringing Domain Name violates Plaintiff's rights in the
24 Trademark.

25 26. The owner of the Infringing Domain Name is not commonly known by either
26 "truecar," "trucar," <trucar.com>, or <truecar.com>.

1 27. The owner of the Infringing Domain Name is not making a bona fide non-
2 commercial or fair use of the Infringing Domain Name. The owner of the Infringing Domain
3 Names has chosen to carry out the infringing use with a domain name that corresponds nearly
4 exactly to Plaintiff's Trademark, thereby indicating that the owner intends to trade on Plaintiff's
5 goodwill rather than offer any criticism, parody, or other protected speech. The owner of the
6 Infringing Domain Name has also chosen a <.com> domain name, thereby indicating that it
7 regards the website as commercial.

8 28. Upon information and belief, the owner of the Infringing Domain Name uses the
9 Infringing Domain Name with the intent of diverting traffic from Plaintiff's website at
10 <truecar.com> to the Infringing Domain Name by creating a likelihood of confusion as to the
11 source, sponsorship, affiliation, or endorsement of the website at the Infringing Domain Name.
12 In particular, users attempting to type <truecar.com> into their web browser address bar who
13 inadvertently miss the "e" will go directly to the website at the Infringing Domain Name.

14 29. Upon information and belief, the website at the Infringing Domain Name is
15 intentionally designed to appear as though it is Plaintiff's website or related to Plaintiff's
16 website. However, the website is not, and never has been, authorized by Plaintiff. The website
17 at the Infringing Domain Name contains unauthorized uses of Plaintiff's name. The website at
18 the Infringing Domain Name does not include any disclaimer stating that the website is not
19 associated with Plaintiff or Plaintiff's website at <truecar.com>.

20 30. Upon information and belief, the owner of the Infringing Domain Name receives
21 revenue when consumers who are confused by unauthorized use of the Trademark click on
22 advertising links on the website at the Infringing Domain Name.

23 31. Upon information and belief, the owner of the Infringing Domain Name has
24 shown a bad faith intent to profit from the goodwill of the Trademark by engaging in conduct
25 described in one or more of the ACPA statutory criteria.

26 32. Plaintiff submits as further evidence of the Infringing Domain Name owner's bad
27 faith the evasive behavior of the owner in response to Plaintiff's efforts to resolve this issue

1 outside of court. Beginning in February 2011, Plaintiff, through its agent, sent multiple
 2 communications to the owner of the Infringing Domain Name in an attempt to discuss a transfer
 3 of the Infringing Domain Name to Plaintiff. In order to avoid this legal proceeding, Plaintiff
 4 offered the owner of the Infringing Domain Name a cash payment in exchange for transfer of the
 5 Infringing Domain Name. To date Plaintiff has received no response.

6 33. Efforts by Plaintiff to resolve this matter directly with the Infringing Domain
 7 Name owner without resorting to legal action have been unsuccessful, and Plaintiff has no reason
 8 to believe that such efforts ever will be successful.

9 34. Upon information and belief, the owner of the Infringing Domain Name has not
 10 and cannot satisfy the ACPA criteria that indicate an absence of bad faith intent to profit from
 11 the goodwill of the Trademark.

12 **CLAIM FOR RELIEF**

13 (Violation Of Anticybersquatting Consumer Protection Act

14 15 U.S.C. § 1125(d))

15 35. Plaintiff repeats and incorporates by reference the allegations of Paragraphs 1
 16 through 34 as though fully set forth.

17 36. Plaintiff's Trademark was distinctive at the time the Infringing Use began at the
 18 Infringing Domain Name, and was, and is, protected by the Lanham Act, 15 U.S.C. § 1125.

19 37. The Infringing Domain Name is virtually identical to and confusingly similar to
 20 the Trademark.

21 38. The Infringing Domain Name is merely a typographical error version of the
 22 Trademark and/or utilizes a colloquial spelling of "true."

23 39. The registration, trafficking in, and use of the Infringing Domain Name by its
 24 owner shows a bad faith intent to profit from the Trademark, and therefore constitutes
 25 cyberpiracy in violation of the ACPA.

26 40. The registration, trafficking in, and use of the Infringing Domain Name by its
 27 owner shows trademark infringement.

41. The owner of the Infringing Domain Name is located outside of the United States, in Spain, and this Court lacks personal jurisdiction over it.

WHEREFORE, Plaintiff prays for judgment and relief as follows:

(A) That the Infringing Domain Name be transferred to Plaintiff, or, in the alternative, cancelled and/or forfeited;

(B) For an order that the domain name registry VeriSign, Inc., transfer the Infringing Domain Name from its current registrar, Enom, Inc., to another registrar, MarkMonitor Inc., which will subsequently register the Infringing Domain Name in the name of TrueCar, Inc.;

(C) For an order that the domain name registrar, Enom, Inc., transfer the Infringing Domain Name to another registrar, MarkMonitor Inc., which will subsequently register the Infringing Domain Name in the name of TrueCar, Inc.; and

(D) An award to Plaintiff of all such other and further relief as this Court may deem just and proper.

Dated: August 24, 2011

s/ Nathan E. Ferguson

Nathan E. Ferguson, WSBA #41311

WILSON SONSINI GOODRICH & ROSATI

Professional Corporation

701 Fifth Avenue, Suite 5100

Seattle, WA 98104-7036

Telephone: (206) 883-2500

Facsimile: (206) 883-2699

Email: nferguson@wsgr.com

John L. Slafsky [to be Admitted *Pro Hac Vice*]

WILSON SONSINI GOODRICH & ROSATI

Professional Corporation

650 Page Mill Road

Palo Alto, CA 94304-1050

Telephone: (650) 493-9300

Facsimile: (650) 493-6811


Email: jslafsky@wsgr.com

Attorneys for Plaintiffs *TRUECAR INC.*

VERIFICATION

I, Jim Nguyen, am the Chief Financial Officer of TrueCar, Inc. I verify, under penalty of perjury, that I have read, am familiar with, and have personal knowledge of the contents of the foregoing Verified Complaint; that the allegations thereof are true and correct or, to the extent that matters are not within my personal knowledge, that the facts stated therein have been assembled by authorized personnel, including counsel, and that I am informed that the facts stated therein are true and correct; and that I have authorized its filing.

Executed this 16th day of August, 2011 in Santa Monica, California.



Jim Nguyen
Chief Financial Officer
TrueCar, Inc.

Exhibit A



[Continue Shopping](#)

Whois Lookup for trucar.com

trucar.com domain name record - [Make an offer now](#)

Search Whois

GO

Registrant:

Links Garantia, S.L.
Links Garantia, S.L.
Av. Jacquard 91-95
Terrassa, BARCELONA 08222 ES
+34.937842600
Fax +34.937855041
dominis07@linksgarantia.com

Related Domains

TruVehicle.com
TruMotor.com
TruCarAccident.com
TruSportsCar.com
TruCarCrash.com

Related Premium Domains

CarOneAuto.com	\$1195.00
carcreditautoloans.com	\$800.00
CarTuneAuto.com	\$2695.00
carquestautopart.com	\$2200.00
CarCareAutoParts.com	\$1888.00

[Search more extensions at BulkRegister](#)

Want *trucar.com*?

[Backorder the domain at NameJet](#)

Own *trucar.com*?

[Transfer your domain to BulkRegister](#)

Administrative:

Links Garantia, S.L.
Links Garantia, S.L.
Av. Jacquard 91-95
Terrassa, BARCELONA 08222 ES
+34.937842600
Fax +34.937855041
dominis07@linksgarantia.com

Technical:

Links Garantia, S.L.
Links Garantia, S.L.
Av. Jacquard 91-95
Terrassa, BARCELONA 08222 ES
+34.937842600



**Easy, Reliable
Web Hosting**

**SIGN UP
NOW!**

**Over \$500 of
FREE EXTRAS**

**Unlimited Storage
& Bandwidth**

**FREE Activation
& Setup**

Hostly

Fax +34.937855041
dominis07@linksgarantia.com

Nameserver:

DNS1.NAME-SERVICES.COM
DNS4.NAME-SERVICES.COM
DNS3.NAME-SERVICES.COM
DNS5.NAME-SERVICES.COM
DNS2.NAME-SERVICES.COM

Updated-Date:

Dec 24, 2010 09:04:16 AM

Created-Date:

Jan 22, 2000 02:46:13 AM

Registration-Expiration-Date:

Jan 22, 2012 02:46:13 AM

Status:

registrar-lock
clientDeleteProhibited

Domain:

trucar.com

trucar.com is a domain name registered by Links Garantia, S.L.. The site is based in Terrassa, BARCELONA, ES. This domain has registrar lock enabled. www.trucar.com hosts it's domain on DNS1.NAME-SERVICES.COM,DNS4.NAME-SERVICES.COM,DNS3.NAME-SERVICES.COM,DNS5.NAME-SERVICES.COM,DNS2.NAME-SERVICES.COM.

Page rank, back links or indexed pages information is not available for www.trucar.com. Inexpensive business listings setup through eNom can help websites to build backlinks, and to generate organic search engine referrals.

The registrant's whois information is not masked from appearing in our whois lookup data. For additional information about www.trucar.com, users are encouraged to email Links Garantia, S.L. at dominis07@linksgarantia.com or call +34.937842600 for items pertaining to the registrant. For administrative issues, please email Links Garantia, S.L. at dominis07@linksgarantia.com or call +34.937842600. Items of a technical nature should be directed to Links Garantia, S.L. by calling +34.937842600 or emailing dominis07@linksgarantia.com .

Enter a domain to search Whois

Search

* Lowest price offered to BulkRegister Premium Accounts only

Awards & Achievements



Payment Options



Related Domains

trucar.net
trucar.org
trucar.me
trucar.info
trucar.mobi
trucar.biz
trucar.tv
trucar.cc
trucar.co
trucar.asia